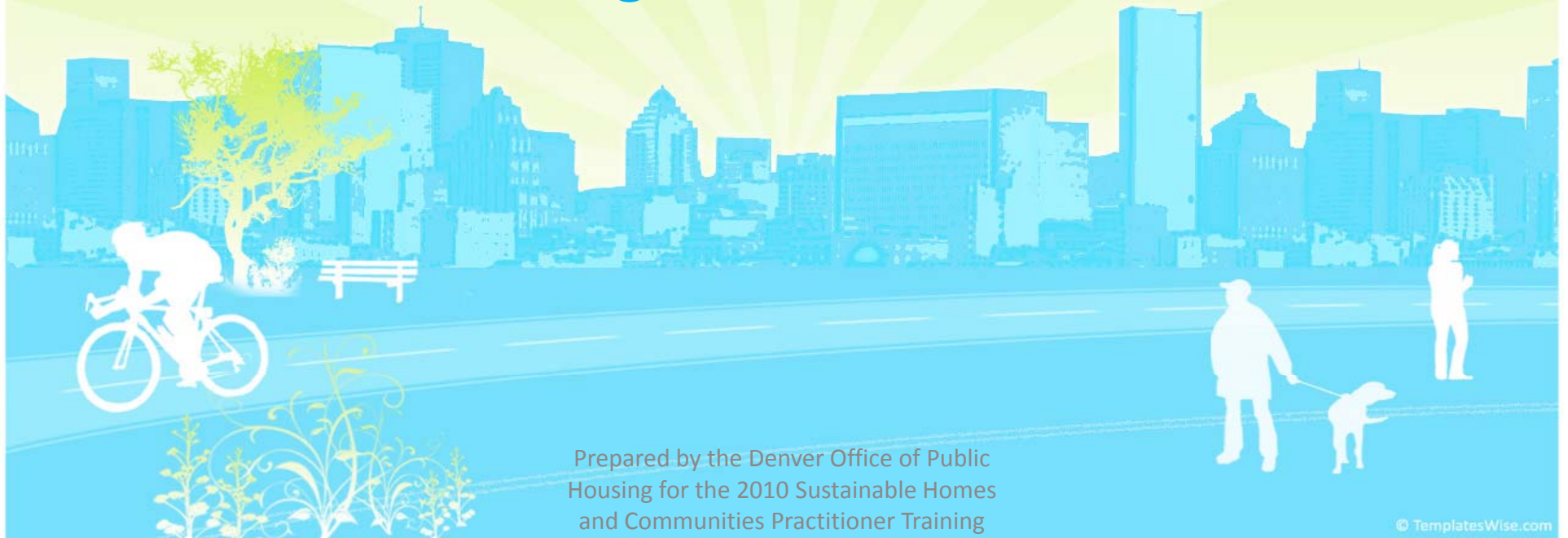




# The Occupancy Cycle

## Grievance Procedures, Informal Hearings, & Terminations



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# Overview

- Grievance Procedures (LRPH)
- Informal Hearings (HCV)
- Reasons for Termination
  - Mandatory terminations
  - Discretionary terminations
- EIV – Debts Owed to PHAs and Terminations Module



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# Overview of Grievance Procedures

## Low Rent Public Housing

- Administrative Grievance Procedures
  - Section 6(k) of USHA and 24 CFR Part 966
  - Grievance procedures provide opportunity for hearing
  - Procedures included in lease (or incorporated by reference)
- Exceptions to Administrative Grievance Procedures (HUD Due Process Determination)
  - Violent or drug-related criminal activity
  - Felony conviction
  - Activity threatens health, safety, or right to peaceful enjoyment of premises by others
  - Excluded if HUD has issued a due process determination that state law gives tenant



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# Due Process Determinations

## Low Rent Public Housing

- Basic Elements of Due Process – 24 CFR §966.53
  - (1) Adequate notice to tenant of grounds for terminating tenancy;
  - (2) Right of tenant to be represented by legal counsel;
  - (3) Opportunity to refute evidence presented by PHA, including right to interview and cross-examine witnesses;
  - (4) Decision on the merits
- HUD issued determinations for all six states in our region
- Due Process Determinations available on hudclips (Legal Opinions)



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# Terminations not Subject to Grievance Procedures

## Low Rent Public Housing

If due process, then PHA **MAY** exclude from its grievance procedures (24 CFR §966.51(a)(2):

- Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of the PHA
- Any violent or drug-related criminal activity on or off such premises; or
- Any criminal activity that resulted in felony conviction of a household member



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# Informal Settlement and Grievances

## Low Rent Public Housing

- Informal settlement of grievance, 24 CFR §966.54
  - The PHA should have an informal discussion to try to work out the issues.
  - PHA prepares summary of discussed within reasonable time/provides tenant copy, retains copy for tenant file
    - Names of participants
    - Dates of meeting(s)
    - Nature of proposed disposition and specific reasons
    - Procedures for hearing if complainant not satisfied



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# Grievance Procedures

## Low Rent Public Housing

### Hearing Requests

- Family must submit a written request for a formal grievance hearing
- Request submitted in accordance with Grievance Procedures and includes:
  - The reason(s) for the grievance; and
  - The action or relief sought from the PHA



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# Grievance Procedures

## Low Rent Public Housing

Appointment of Hearing Officers for Grievance Hearing (24 CFR §966.55):

- (1) Grievance Hearing shall be conducted by impartial person appointed by PHA
- (2) Method of PHA appointment of hearing officer or hearing panel shall be stated in PHA Grievance Procedures. The PHA may use either of the following methods to appoint a hearing officer
  - (i) a method approved by the majority of tenants
  - (ii) appointment of a person selected in a manner required under the PHA grievance procedure
- (3) PHA shall consult the resident organizations before PHA appointment of each hearing officer. Any comments or recommendations submitted by the tenant organization shall be considered by the PHA before the appointment.



# Grievance Procedure Regulations

## Low Rent Public Housing

- §966.51 – Grievance Procedures (Policy) and requirements (a)(1) shall be applicable to all individual grievances...
- §966.52 – Each PHA shall adopt a grievance procedure
- §966.54 – Informal settlement of grievance
- §966.55 – Procedures (Policy) to obtain a hearing  
(a) Request for hearing, (b) Selection of hearing officer or hearing Panel :



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# Grievance Procedure Regulations

## Low Rent Public Housing

- §966.55 (d) Escrow deposit
- §966.55 (g) Expedited grievance procedure - ...the PHA may adopt special procedures (policy) concerning a hearing under the expedited grievance procedure...
- §966.56 – Procedures governing the hearing
- §966.56 (e)..the PHA must sustain the burden of justifying the PHA action or failure to act...
- §966.56 (h) accommodation of person with disabilities...



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# Grievance Procedure Regulations

## Low Rent Public Housing

- §966.4 (I)(vi) The PHA must establish **standards (policies)** that allow termination of tenancy if the PHA determines that a household member has (A) engaged in abuse or pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the right to peaceful enjoyment of their residence by person residing in the immediate vicinity of the premises is grounds for termination of tenancy; or (b) Furnished false or misleading information concerning illegal drug use...



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# Grievance Procedure Regulations

## Low Rent Public Housing

- §966.4 (l) (vii) (E) – If a statute requires that the PHA prohibit admission of persons for a prescribed period of time after some disqualifying behavior or event. The PHA may apply that prohibition for a longer period of time...



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# Informal Hearings - Required

## Housing Choice Voucher Program

- A PHA must give a participant family an opportunity for an informal hearing when:
  - A determination annual or adjusted income
  - Utility allowance determination
  - Unit size under the subsidy standards
  - PHA determination to deny the family's request for an exception from the standards
  - A determination to terminate assistance
- 24 CFR §982.555



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# PHA Informal Hearing Procedures

- The Administrative Plan must state the PHA procedures for conducting informal hearings for participants.
- Family may be represented by a lawyer
- Hearing Officer:
  - The hearing may be conducted by any person or persons designated by the PHA, other than a person who made or approved the decision under review or a subordinate of this person
  - The person who conducts the hearing must issue a written decision



# Informal Hearing

## Housing Choice Voucher Program

The PHA is not bound by a hearing decision:

**If the decision is contrary to HUD regulations or requirements or otherwise contrary to federal, state, or local law.**





# Informal Hearings – Not Required

## HCV Program

- A PHA is not required to provide a participant family an opportunity for an informal hearing when:
  - Discretionary administrative determinations by the PHA
  - General Policy issues or class grievances
  - Establishment of the PHA schedule of utility allowances for the program
  - PHA determination not to approve an extension or suspension of a voucher term
  - PHA determination not to approve a unit or tenancy or HQS
  - A PHA determination to exercise any right or remedy against an owner under a HAP



# Termination of Tenancy/Assistance

## LRPH and HCV Programs

The PHA **may** terminate assistance for any of the following grounds:

- Violation of family obligations
  - LRPH tenant obligations are at 24 CFR §966.4(f)
  - HCV participant obligations are at 24 CFR §982.551
- Eviction from federally assisted housing in the last 5 years
- Termination of assistance of any member of the family by a PHA



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# Termination of Tenancy/Assistance

## LRPH and HCV Programs

The PHA **may** terminate assistance for any of the following grounds:

- Fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program
- Failure to comply with Family Self-Sufficiency (FSS) and Community Service and Self-Sufficiency Requirements (CSSR)



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# Termination of Tenancy/Assistance

## LRPH and HCV Programs

- Does HUD require the PHA to terminate tenancy/assistance?
  - “Shall” or “Must” = **YES**
  - “May or “Should” = **NO**
- If HUD does not require, then check PHA’s policy:
  - LRPH: ACOP
  - HCV: Administrative Plan



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# Termination of Tenancy/Assistance

## LRPH and HCV Programs

The PHA **may** terminate assistance for any of the following grounds:

- Threatened or actual abusive or violent behavior toward PHA staff
- Family owes rent or other amounts to the PHA/Failure to make payments due under the lease



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# Termination of Tenancy/Assistance

## LRPH and HCV Programs

- Social Security Numbers: The PHA **must** terminate assistance if SSN disclosure requirements are not met for applicants and participants who are not exempt.
- Citizenship/Eligible Immigration Status: The PHA **may** terminate assistance for failure to establish or provide evidence of citizenship or eligible immigration status. - 24 CFR Part 5, Subpart E.
- Consent Forms (form HUD 9886): The PHA **may** terminate assistance for failure to sign and submit consent forms required for obtaining information.

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# Termination of Tenancy/Assistance

## LRPH and HCV Programs

### Drug-Related Activity

- The PHA **may** terminate assistance if the PHA determines that any household member is currently engaged in illegal drug use; or
- A pattern of illegal drug use by any household member interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents
- The PHA **must** terminate tenancy/assistance if the PHA determines that any household member has been convicted of drug-related activity for the manufacture of methamphetamine on federally assisted housing premises



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# Termination of Tenancy/Assistance

## LRPH and HCV Programs

### Other Criminal Activity:

- The PHA **may** terminate assistance if PHA determines family's obligation not to engage in any drug-related criminal activity has been violated.
- The PHA **may** terminate assistance for alcohol abusers if determined that a household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.
- The PHA **may** terminate assistance for criminal activity if it determines the household member has engaged in the activity, regardless of whether the household member has been arrested or convicted for such activity.
- Lifetime Sex Offender – The PHA **should** pursue eviction or termination of tenancy of lifetime sex offenders to the extent allowed by lease and state or local law.



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# Termination of Tenancy/Assistance

## Low Rent Public Housing

- 12-month lease term
- Automatic renewal EXCEPT for noncompliance with community service req.
- Tenancy cannot be terminated except for “serious or repeated violation of terms or conditions of lease or other good cause”.



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# Debts Owed to PHAs & Terminations Module

- Available to PHAs since 9/25/09
- National repository of families that:
  - Owe a debt to **ANY** PHA nationwide and/or
  - Left a PIH program under negative circumstances
- Per email from PIH.RHIIP.TA dated April 26, 2010 PHAs are now required to enter debt owed and termination information
- EIV imports End of Participation (EOP) information from PIC daily
- Only 50058s dated within the last 15 months will be imported



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# Debts Owed to PHAs & Terminations Module

- PHAs must enter the following information into EIV after (EOP)
  - Amount owed
  - Adverse circumstance(s)
  - Bankruptcy status
  - Repayment agreement and status
- Only PHAs may enter, update and delete former tenant debt and termination information
- The PHA Executive Director or designee must identify which staff will be authorized to enter, update, and delete debt and termination information

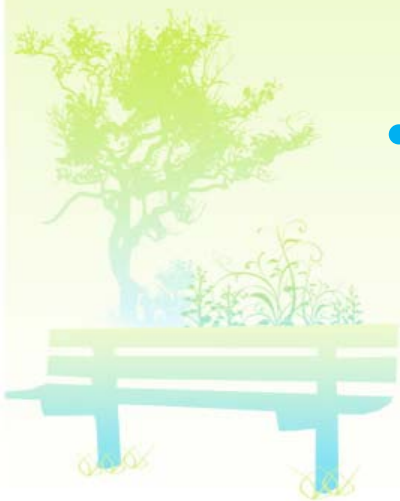


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# Debts Owed to PHAs & Terminations Module

- Debt owed and termination information is available only if the PHA enters the information.
- PHAs must ensure that the information entered is accurate
- PHAs must enter information within a reasonable time from – 90 days from EOP date
- PHAs may enter information for former tenants who have left the program within the last 15 months
- EIV is updated daily with new EOP families



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# Notice to Tenants and Applicants

- HUD created a standardized notice for tenants and applicants that provides information on the collection of debt and adverse termination:
  - What information is collected
  - How the information will be used
  - Individual's right to dispute incorrect information
- PHAs must provide the notice to all applicants and participants (at the next re-exam)
- *Applicants and Participants are required to sign the notice .*

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# Tenant Dispute of Debts Owed & Termination Information

- The PHA who denied the assistance is required to provide the family with the report
- Tenant must contact the PHA, who has reported the information, in writing and explain why the information is disputed and provide any applicable documentation
- Disputes must be made within 3 years from the EOP date otherwise the debt and termination information is presumed correct
- Only the PHA who reported the adverse information can delete or correct the record



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